

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

In Re Athens/Alpha Gas Corporation, a)	ORDER DENYING MOTION FOR
Texas Corporation,)	RECONSIDERATION
)	
Debtor.)	Case No. 1:06-cv-054

On April 3, 2007, Athens/Alpha Gas Corporation filed a “Motion for Reconsideration, Alteration or Amendment of Judgment.” See Docket No. 16. On April 6, 2007, the Appellees filed a response in opposition to the motion. See Docket No. 19. Athens/Alpha Gas Corporation requests relief from the judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.

Rule 60(b) of the Federal Rules of Civil Procedure provides in pertinent part that “[o]n motion and upon such terms as are just, the court may relieve a party or a party’s legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect;” F.R. Civ. P. 60(b)(1). Athens/Alpha Gas Corporation contends that the Court should reconsider its order dismissing the case because Athens/Alpha Gas Corporation should not be foreclosed from proceeding in this case “due to the error or omission of counsel.” See Docket No. 17, p. 5.

The cases in the Eighth Circuit are numerous and unequivocal that “an attorney’s ignorance or carelessness does not constitute excusable neglect.” United States v. Puig, 419 F.3d 700, 702 (8th Cir. 2005); Noah v. Bond Cold Storage, 408 F.3d 1043, 1044 (8th Cir. 2005) (finding that failure to comply with scheduling order, failure to respond to show cause order and “busy schedule” of attorney are insufficient as excusable neglect under Rule 60(b)(1)); United States v. 40 Acres of Land, 221 F.3d 1344 (8th Cir. 2000) (unpublished) (holding that relief under Rule 60(b)(1) for excusable neglect is quite limited and should only be granted upon an adequate showing of

exceptional circumstances and that counsel cannot obtain relief by pointing to his carelessness or negligence).

Having carefully reviewed the record, the Court finds no basis for reversing its previous order. The Court **DENIES** Athens/Alpha Gas Corporation's Motion for Reconsideration, Alteration or Amendment Judgment. (Docket No. 16).

IT IS SO ORDERED.

Dated this 18th day of April, 2007.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court